



# Education Act 2002

## 2002 CHAPTER 32

### PART 10

#### INDEPENDENT SCHOOLS

#### CHAPTER 1

##### REGULATION OF INDEPENDENT SCHOOLS

##### *Enforcement of standards after registration*

#### **165 Failure to meet standards**

- (1) This section applies where, taking into account—
  - (a) a report under section <sup>F1</sup>... 163 in respect of a registered school, or
  - (b) any other evidence in respect of a registered school,the registration authority is satisfied that any one or more of the independent school standards is or are not being met in relation to the school.
- (2) If the registration authority considers that there is a risk of serious harm to the welfare of pupils at the school, the authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
- (3) Where the registration authority does not make a determination under subsection (2), it shall serve a notice on the proprietor of the school—
  - (a) identifying the standard or standards in question, and
  - (b) requiring the proprietor to submit an action plan to the authority before the date specified in the notice (or such later date as the authority may specify after service of the notice).
- (4) For the purposes of this section, an action plan is a plan specifying—
  - (a) the steps that will be taken to meet a standard or standards, and

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*Status: Point in time view as at 05/01/2015.*

*Changes to legislation: Education Act 2002, Section 165 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (b) the time by which each step will be taken.
- (5) Where an action plan is submitted in accordance with subsection (3) the registration authority may—
  - (a) reject it, or
  - (b) approve it, with or without modifications.
- (6) Where an action plan is required under subsection (3) but is not submitted in accordance with that subsection, or is so submitted but rejected, the registration authority may—
  - (a) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine, or
  - (b) make an order under subsection (8).
- (7) Where an action plan has been approved under subsection (5), but any step specified in the plan is not taken by the date specified in the plan (whether as originally approved or as varied under paragraph (a)), the registration authority may—
  - (a) substitute a later date for the taking of that step,
  - (b) make an order under subsection (8), or
  - (c) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
- (8) An order under this subsection is an order requiring the proprietor of the school to do one or more of the following no later than such date after the appeal period as may be specified in the order—
  - (a) to cease using any part of the school premises for all purposes or purposes specified in the order;
  - (b) to close any part of the school’s operation;
  - (c) to cease to admit any new pupils, or new pupils of a description specified in the order.
- (9) If the proprietor of a school fails to comply with an order under subsection (8)—
  - (a) he is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both, and
  - (b) the registration authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
- (10) Where the proprietor of a school in respect of which an order is made under subsection (8) applies to the registration authority for the order to be varied or revoked, the authority shall—
  - (a) vary or revoke the order as requested in the application, if it is satisfied that it is appropriate to do so because of any change of circumstance, and
  - (b) in any other case, refuse to do so.
- (11) The variation or revocation of an order under subsection (10) shall take effect as from the date on which the proprietor of the school is notified of it.
- (12) Where the registration authority has made a determination under this section to remove a school from the register on a particular date and no appeal is made against the determination under section 166, the authority shall remove the school from the register on that date.

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- (13) For the purposes of this Chapter, the “appeal period” in relation to a determination or order is the period within which an appeal against it may be made under section 166.

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**Textual Amendments**

- F1** Words in s. 165(1)(a) repealed (5.1.2015) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), Sch. 1 para. 21, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

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**Modifications etc. (not altering text)**

- C1** S. 165 restricted (19.11.2003) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(No.2\) \(Wales\) Regulations 2003 \(S.I. 2003/2959\)](#), regs. 1(1), **8(1)**

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**Commencement Information**

- I1** S. 165 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4** (with Sch. para. 6)  
**I2** S. 165 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

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